

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS**

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**DARYL ADAMS,**

**Plaintiff,**

**-against-**

**THE CITY OF NEW YORK, and POLICE OFFICERS  
JOHN DOES #1-10 (names and number of whom are  
unknown at present), and other unidentified members of the  
New York City Police Department,**

**Defendants.**  
----- X

**SUMMONS**

**Index No.:**

**The Basis of Venue is:  
Location of Incident**

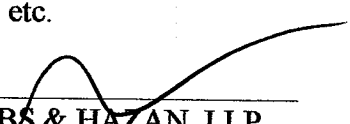
**Plaintiff designates Kings  
County as the place of trial.**

**To the above named Defendants:**

**You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.**

**DATED: New York, New York  
April 21, 2014**

**Yours, etc.**

  
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**JACOBS & HAZAN, LLP.  
STUART E. JACOBS, ESQ.  
Attorney for Plaintiff  
11 Park Place, 10<sup>th</sup> Floor  
New York, New York 10007  
(212) 577-2690**

**TO: City of New York, New York City Law Department, 100 Church Street, NY, NY 10007**

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**INDEX NO.:**

**VERIFIED COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff, DARYL ADAMS, by his attorneys, Jacobs & Hazan, LLP, as and for his  
Verified Complaint herein, alleges upon information and belief as follows:

**PRELIMINARY STATEMENT**

1. This is a civil rights action to recover money damages arising out of  
defendants' violation of plaintiff's rights as secured by the Civil Rights Act, 42 U.S.C. Section  
1983, and of rights secured by the First, Fourth, Fifth and Fourteenth Amendments to the United  
States Constitution, and the common law and the laws of the State of New York. On January 21,  
2013, at approximately 11:30 a.m., plaintiff, Daryl Adams, while lawfully inside of his  
apartment, located at 524 Georgia Avenue, Apartment 2, Brooklyn, New York, was subject to an  
unlawful seizure, search, detention, false arrest, false imprisonment, assault, battery, and use of  
excessive force by the defendant New York City police officers. Plaintiff was deprived of his  
constitutional and common law rights when the individual defendants unlawfully seized,  
searched, detained, falsely arrested, falsely imprisoned, assaulted, battered, and used excessive  
force against plaintiff in violation of the Fourth, Fifth and Fourteenth Amendments to the United  
States Constitution and the common law of the state of New York.

**PARTIES**

2. Plaintiff Daryl Adams is a resident of the County of Kings, State of New  
York.

3. Defendant New York City Police Officers JOHN DOES #1-10 are and were at  
all times relevant herein officers, employees, and agents of the New York City Police  
Department.

4. Defendant Police Officers JOHN DOES #1-10 are being sued in their individual and official capacities.

5. At all times relevant herein, the individual defendants were acting under color of state law in the course and scope of their duties and functions as agents, servants, employees and officers of the New York City Police Department, and otherwise performed and engaged in conduct incidental to the performance of their lawful functions in the course of their duties. They were acting for and on behalf of the New York City Police Department at all times relevant herein, with the power and authority vested in them as officers, agents and employees of the New York City Police Department and incidental to the lawful pursuit of their duties as officers, employees and agents of the New York City Police Department.

6. At all times relevant hereto, defendant CITY OF NEW YORK, operated, maintained managed, supervised and controlled the New York City Police Department ("NYPD") as part of and in conjunction with its municipal function.

7. Defendant City of New York is a municipal entity created and authorized under the laws of the State of New York. It is authorized by law to maintain a police department which acts as its agent in the area of law enforcement and for which it is ultimately responsible. The defendant City of New York assumes the risks incidental to the maintenance of a police force and the employment of police officers as said risks attach to the public consumers of the services provided by the New York City Police Department.

8. Plaintiff in furtherance of his State causes of action filed a timely Notice of Claim against the CITY OF NEW YORK, in compliance with the Municipal Law Section 50.

9. More than thirty (30) days have elapsed since service of said Notice of Claim was filed and THE CITY OF NEW YORK has failed to pay or adjust the claim.

10. This action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving intentional actions, as well as the defendant, and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

11. Plaintiff sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

### **STATEMENT OF FACTS**

12. Prior to the incident that occurred on January 21, 2013, plaintiff called the New York City Fire Department ("FDNY") on January 17, 2013, to report a carbon monoxide leak in his apartment building, located at 524 Georgia Avenue, Brooklyn, New York.

13. On January 17, 2013, the FDNY responded to plaintiff's apartment building to investigate the carbon monoxide leak.

14. During their investigation of the carbon monoxide leak at plaintiff's apartment building on January 17, 2013, the FDNY broke down the apartment door of plaintiff's downstairs neighbor, Lashar Williams, who lived on the first floor of plaintiff's apartment building.

15. On January 17, 2013, Lashar Williams had a security system in his apartment and when the FDNY broke down the door to Mr. Williams' apartment, the security alarm was triggered.

16. Upon information and belief, the NYPD was notified by the security company when the security alarm was triggered after the FDNY broke down Lashar Williams' apartment door and entered his apartment.

17. When the FDNY broke down Mr. Williams apartment door on January 17, 2013, Mr. Williams was in the hospital being treated for a medical condition.

18. Upon information and belief, the security alarm in Lashar Williams' apartment was going off from January 17, 2013 until January 21, 2013, at approximately 11:20 a.m., when Lashar Williams' sister, Ms. Williams, arrived at Lashar Williams' apartment to check the mail.

19. When Ms. Williams arrived at Lashar Williams' apartment on January 21, 2013, at approximately 11:20 a.m., she turned off the security alarm and immediately called 911 because the door to Lashar Williams' apartment was open and appeared to have been broken.

20. Shortly thereafter, at approximately 11:30 a.m. on January 21, 2013, several defendant NYPD officers arrived at plaintiff's apartment building, located at 524 Georgia Avenue, Brooklyn, New York.

21. Upon information and belief, the defendant police officers first spoke with Ms. Williams, who informed the officers that she did not live in the building but had come to check the mail for her hospitalized brother, Lashar Williams, and that when she arrived the apartment door was broken and open, but it did not appear that his apartment had been burglarized because no property was missing from the apartment.

22. After speaking with Ms. Williams, on January 21, 2013, at approximately 11:30 a.m., plainclothed defendant police officer # 1 unlawfully entered plaintiff's apartment without a warrant, consent, probable cause or legal justification.

23. When defendant police officer # 1 unlawfully entered plaintiff's apartment, plaintiff was laying in his bed in his bedroom.

24. Upon unlawfully entering the apartment, plainclothed defendant police officer # 1 approached plaintiff in a very aggressive manner with his firearm pointed at plaintiff, causing plaintiff to fear for his physical safety.

25. Plainclothed defendant police officer # 1 then unlawfully grabbed plaintiff in a rough and aggressive manner, and slammed plaintiff against a wall, without cause or legal justification.

26. Plainclothed defendant police officer # 2 then unlawfully entered plaintiff's bedroom and immediately punched plaintiff in the face, without cause or legal justification.

27. Thereafter, defendant police officer # 3 entered plaintiff's apartment, and the defendant police officers threw plaintiff on the ground in a very rough and aggressive manner, and proceeded to punch and kick plaintiff in the head, neck and torso many times, without cause or legal justification.

28. Plainclothed defendant police officer # 1 also spit in plaintiff's face and hit plaintiff in the head with his firearm, without cause or legal justification.

29. The defendant police officers then handcuffed plaintiff in an unreasonably tight manner, without probable cause or legal justification.

30. After plaintiff was handcuffed, defendant police officer # 1 told plaintiff, "do not resist or we will shoot you, nigger."

31. At no time did plaintiff resist in any way.

32. The defendant police officers then punched and kicked plaintiff in the head and torso many times after he was handcuffed, without cause or legal justification.

33. Notably, the defendant police officers punched and kicked plaintiff in the head and torso multiple times after he was handcuffed and lying face down on the ground.

34. Plaintiff informed the defendant police officers that he lives in the apartment, and told the officers to look at the mail and bills on his desk that were addressed to him and proved he lived in the apartment.

35. The defendant police officers then dragged plaintiff to his feet, and plaintiff pointed out the mail and bills that were addressed to him and proved he lived in the apartment.

36. Defendant police officer # 4 then entered plaintiff's apartment and punched plaintiff in the stomach very forcefully, without cause or legal justification.

37. Notably, at the time defendant police officer # 4 punched plaintiff in the stomach, he was handcuffed and physically detained by other defendant police officers.

38. At no time did plaintiff verbally or physically threaten the defendant NYPD officers, and no reasonable police officer would believe that plaintiff verbally or physically threatened the defendant police officers at any time.

39. No reasonable police officer would have believed it was necessary to use physical force against plaintiff at any time.

40. Plaintiff was assaulted and battered and excessive force was used against plaintiff by the defendant police officers without cause or legal justification.

41. The defendant police officers unlawfully searched plaintiff's apartment, without a warrant, consent, probable cause or legal justification.

42. At no time did the defendant police officers find any guns, drugs, or illegal contraband inside the apartment or in plaintiff's possession, custody or control.

43. Defendants did not have an objective factual basis to believe plaintiff committed a crime or violated the law in any way.

44. Nevertheless, after illegally searching plaintiff's apartment for approximately 30 minutes, the defendant police officers informed plaintiff that he was under arrest, without probable cause or any legal justification.

45. The defendant police officers then escorted plaintiff downstairs to the front porch of the apartment building where they spoke with Ms. Williams.

46. Ms. Williams informed the defendant police officers that plaintiff resided in the apartment building on the second floor.

47. Thereafter, the defendant police officers removed the handcuffs and released plaintiff from police custody.

48. After plaintiff was released from police custody, he called 911 to request an ambulance to take him to the hospital to treat his injuries.

49. Thereafter, plaintiff was transported via ambulance to the emergency room at Brookdale Hospital.

50. Plaintiff received medical treatment for his injuries, which were caused by the defendant police officers, and was discharged from Brookdale Hospital on January 21, 2013, at approximately 2:00 p.m.

51. Thereafter, plaintiff returned to Brookdale Hospital on January 22, 2013, because he was experiencing a severe fever, and extreme pain to his head, body and right knee.

52. As a result of the January 21, 2013 incident, plaintiff suffered severe physical injuries, including but not limited to lacerations to the face and head, severe pain to his head, body, and back, blood in his urine, and torn cartilage in his right knee.

53. Some of the police officer defendants observed the violation of plaintiff's rights under the Constitution of the United States and New York State Law and did nothing to prevent the unjustifiable entry and search of plaintiff's apartment, or the unjustifiable seizure, search, false arrest, false imprisonment, assault, and battery of plaintiff.

54. The unlawful entry and search of plaintiff's apartment, and the unlawful seizure, search, false arrest, false imprisonment, assault, and battery of plaintiff by the individually named defendants caused plaintiff to sustain serious physical, psychological and emotional trauma.

## **FIRST CAUSE OF ACTION**

### **Violation of Plaintiff's Fourth Amendment and Fourteenth**

#### **Amendment Rights**

55. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 54 with the same force and effect as if more fully set forth at length herein.

56. The individually named police officer defendants while acting in concert and within the scope of their authority, caused plaintiff's apartment to be unlawfully entered and searched, and caused plaintiff to be unlawfully seized, unlawfully searched, falsely arrested, falsely imprisoned, assaulted, battered, and subjected to the use of excessive force without probable cause in violation of plaintiff's right to be free of an unreasonable seizure under the Fourth Amendment of the Constitution of the United States and to be free of a deprivation of liberty under the Fourteenth Amendment to the Constitution of the United States.

## **SECOND CAUSE OF ACTION**

### **False Arrest and False Imprisonment**

57. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 56 with the same force and effect as if more fully set forth at length herein.

58. The acts and conduct of the defendants constitute false arrest and false imprisonment under the laws of the State of New York. Defendants intended to confine plaintiff and, in fact, confined plaintiff, and plaintiff was conscious of the confinement. In addition, plaintiff did not consent to the confinement and the confinement was not otherwise privileged.

59. Defendants were at all times agents, servants, and employees acting within the scope of their employment by the City of New York and the New York City Police Department, which are therefore responsible for their conduct.

60. The City, as the employer of the officer defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

### **THIRD CAUSE OF ACTION**

#### **Unlawful Search**

61. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 60 with the same force and effect as if more fully set forth at length herein.

62. The illegal search of plaintiff's apartment by defendants herein terminated plaintiff's freedom of movement through means intentionally applied.

63. Defendants lacked probable cause to search plaintiff's apartment.

64. Defendants were at all times agents, servants, and employees acting within the scope of their employment by the City of New York and the New York City Police Department, which are therefore responsible for their conduct.

65. The City, as the employer of the officer defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

### **FOURTH CAUSE OF ACTION**

#### **Failure to Intervene**

66. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 65 with the same force and effect as if more fully set forth at length herein.

67. Defendants had an affirmative duty to intervene on behalf of plaintiff, whose constitutional rights were being violated in their presence by other officers.

68. Defendants failed to intervene to prevent the unlawful conduct described herein.

69. As a result of the foregoing, plaintiff's liberty was restricted for an extended period of time, he was put in fear of his safety, and he was humiliated and subject to other physical constraints.

70. Defendants were at all times agents, servants, and employees acting within the scope of their employment by the City of New York and the New York City Police Department, which are therefore responsible for their conduct.



71. The City, as the employer of the officer defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

## **FIFTH CAUSE OF ACTION**

### **Negligence**

72. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 71 with the same force and effect as if more fully set forth at length herein.

73. Defendants owed a duty of care to plaintiff.

74. Defendants breached that duty of care by unlawfully seizing, searching, falsely arresting, falsely imprisoning, assaulting and battering plaintiff.

75. As a direct and proximate cause of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

76. All of the foregoing occurred without any fault or provocation by plaintiff.

77. Defendants were at all times agents, servants, and employees acting within the scope of their employment by the City of New York and the New York City Police Department, which are therefore responsible for their conduct.

78. The City, as the employer of the officer defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

## **SIXTH CAUSE OF ACTION**

### **Negligent Hiring, Retention, Training and Supervision**

79. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 78 with the same force and effect as if more fully set forth at length herein.

80. The City of New York and its employees, servants and/or agents acting within the scope of their employment did negligently hire, retain, train and supervise defendants, individuals who were unfit for the performance of police duties on the aforementioned dates at the aforementioned locations.

## **SEVENTH CAUSE OF ACTION**

### **Negligent Infliction of Emotional Distress**

81. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 80 with the same force and effect as if more fully set forth at length herein.

82. By the actions described herein, defendants, each acting individually and in concert with each other, engaged in extreme and outrageous conduct, conduct utterly intolerable in a civilized community, which negligently caused severe emotional distress to plaintiff, Daryl Adams. The acts and conduct of the defendants were the direct and proximate cause of injury and damage to plaintiff and violated plaintiff's statutory and common law rights as guaranteed plaintiff by the laws and Constitution of the State of New York.

83. As a result of the foregoing, plaintiff was deprived of liberty and sustained great emotional injuries.

84. The City, as the employer of the officer defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

## **EIGHTH CAUSE OF ACTION**

### **Intentional Infliction of Emotional Distress**

85. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 84 with the same force and effect as if more fully set forth at length herein.

86. The above-described conduct of the individually named defendants was outrageous, atrocious so extreme in degree to go beyond all possible bounds of decency, and utterly intolerable in a civilized community.

87. The individually named defendants' conduct was intentional, wanton and reckless and was done with a total disregard of the risks to plaintiff's health and safety.

88. As a direct and proximate result of the acts alleged above, plaintiff suffered severe emotional distress, humiliation, mental anguish, and physical distress.

89. The acts of the individually named defendants alleged above were willful, wanton, flagrant, malicious, oppressive, and performed with a total disregard for plaintiff's health safety and welfare, and justify the award of punitive damages.

90. The City, as the employer of the officer defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

## **NINTH CAUSE OF ACTION**

### **Assault**

91. Plaintiff repeats and realleges paragraphs 1 through 90 as if fully set forth herein.

92. Defendants, their agents, servants and employees, acting within the scope of their employment, intentionally, willfully and maliciously assaulted plaintiff in that they had the real or apparent ability to cause imminent harmful and/or offensive bodily contact and intentionally did a violent and/or menacing act which threatened such contact to the plaintiff, and that such acts caused apprehension of such contact in the plaintiff.

93. Defendants were at all times agents, servants, and employees acting within the scope of their employment by the City of New York and the New York City Police Department, which are therefore responsible for their conduct.

94. The City, as the employer of defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

## **TENTH CAUSE OF ACTION**

### **Battery**

95. Plaintiff repeats and realleges paragraphs 1 through 94 as if fully set forth herein.

96. Defendants, their agents, servants and employees, acting within the scope of their employment, intentionally, willfully and maliciously battered plaintiff, when they, in a hostile and/or offensive manner struck plaintiff without his consent and with the intention of causing harmful and/or offensive bodily contact to the plaintiff and caused such battery.

97. Defendants were at all times agents, servants, and employees acting within the scope of their employment by the City of New York and the New York City Police Department, which are therefore responsible for their conduct.

98. The City, as the employer of defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

## **ELEVENTH CAUSE OF ACTION**

### **Violation of Plaintiff's Fourth And Fourteenth Amendment**

#### **Rights**

99. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 98 with the same force and effect as if more fully set forth at length herein.

100. The use of excessive force by defendants grabbing plaintiff, throwing him onto the floor, punching and kicking him, spitting in his face, hitting him in the face with a firearm, and handcuffing him excessively tightly was an objectively unreasonable physical seizure of plaintiff in violation of his rights under the Fourth and Fourteenth Amendments to the Constitution of the United States and to be free of a deprivation of liberty under the Fourteenth Amendment to the Constitution of the United States.

101. Defendants were at all times agents, servants, and employees acting within the scope of their employment by the City of New York and the New York City Police Department, which are therefore responsible for their conduct.

The City, as the employer of defendants, is responsible for his wrongdoing under the doctrine of respondeat superior.

#### **JURY DEMAND**

102. Plaintiff hereby demands trial by jury of all issues properly triable thereby.

## **PRAYER FOR RELIEF**

**WHEREFORE**, plaintiff Daryl Adams demands judgment against the defendants on each cause of action in amounts to be determined upon the trial of this action which exceeds the jurisdiction of lower courts, inclusive of punitive damages and attorneys fees inclusive of costs and disbursements of this action, interest and such other relief as is appropriate under the law. That the plaintiff recover the cost of the suit herein, including reasonable attorneys fees pursuant to 42 U.S.C. § 1988.

Dated: New York, New York  
April 21, 2014

By: 

STUART E. JACOBS  
DAVID M. HAZAN  
JACOBS & HAZAN, LLP  
Attorneys for Plaintiff  
11 Park Place, 10<sup>th</sup> Floor  
New York, NY 10007  
(212) 577-2690

TO: City of New York, New York City Law Department, 100 Church Street, NY, NY 10007

**ATTORNEY'S VERIFICATION**

**STUART E. JACOBS**, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am a partner of the law firm of **JACOBS & HAZAN, LLP**, I have read the annexed **VERIFIED COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files. The reason this verification is made by me and not Plaintiff is that Plaintiff does not reside in the county wherein I maintain my office.

DATED: New York, New York  
April 21, 2014

  
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STUART E. JACOBS